

**REMARKS**

In the present amendment, claims 1 and 5 have been amended and claim 3 has been cancelled. Accordingly, claims 1, 2, and 4-7 are pending in the application with claim 1 being independent.

Applicants note that claim 1 has been amended to include the elements of now cancelled claim 3.

**Response to rejection under 35 U.S.C. § 102(b)**

The Office Action rejects claims 1 and 4-5 under 35 U.S.C. § 102(b) as allegedly being anticipated by JP 2000-161647, hereinafter “JP’647.”

The Office Action asserts that JP’647 discloses all elements of claim 1, noting that the recitation of the flow rate of less than 10 m/s is directed “to the manner of operating the device” and does not “further limit an apparatus claim.”

Applicants respectfully traverse the rejection. Applicants submit that in order to advance prosecution of the application and without expressing agreement with or acquiescence to the rejection, independent claim 1 has been amended to render the rejection moot.

Applicants note that present claim 1 recites the elements of now cancelled claim 3, i.e., that “at least some of the heat transfer tubes of the gas-gas heater are composed of fin-equipped heat transfer tubes, and the fin pitch of the heat transfer tubes of the gas-gas heater heat recovery device being set at 7.25 to 10.16 mm, and the fin pitch of the heat transfer tubes of the gas-gas heater re-heater being set at 6.35 to 8.47 mm.” Applicants submit that JP’647 does not disclose a fin pitch set of the gas-gas heater recovery device in the range of 7.25 to 10.16 mm and a fin pitch of the gas-gas heater re-heater being set at 6.35 to 8.47, as also admitted by the Examiner, and therefore fails to recite all elements of present claim 1.

In view of the foregoing amendments and remarks herein, Applicants respectfully request withdrawal of the anticipation rejections over JP'647.

**Response to Rejections under 35 U.S.C. § 103( a)**

The Office Action makes the following claim rejections under 35 U.S.C. § 103(a):

- claim 2 as allegedly being unpatentable over JP'647 in view of U.S. Patent No. 6,096,279 to Iwashita et al., hereinafter "IWASHITA;"
- claim 3 as allegedly being unpatentable over JP'647 in view of JP 09-280540, hereinafter "JP'540;"
- claim 6 as allegedly being unpatentable over JP'647 in view of JP 2000-304238, hereinafter "JP'238;" and
- claim 7 as allegedly being unpatentable over JP'647 in view of JP 2000-320998, hereinafter JP'998.

Applicants respectfully note that the obviousness rejections of claims 2, 6, and 7 are based under the assumption that claim 1 is anticipated by JP'647. Applicants submit that at least for the reasons discussed above, JP'647 does not anticipate the presently claimed invention. Claims 2, 6, and 7 only specify certain features of the exhaust gas treating apparatus and depend ultimately from claim 1. Accordingly, claims 2, 6, and 7 are patentable for the same reason that claim 1 is patentable over JP'647. IWASHITA, JP'238 and JP'998 do not cure or supply the deficiency of JP'647 by merely teaching additional aspects of claim 1.

Accordingly, Applicants respectfully request withdrawal of the obviousness rejections of claims 2, 6 and 7.

Concerning the obviousness rejection of dependent claim 3, the Office Action asserts that JP'540 "teaches that it is desirable to provide a heat exchanger (Abstract) with fin pitch set within 8-10 mm."

In response, Applicants respectfully note that the Abstract of JP'540 does not contain a teaching that the fin pitch set should be within 8-10 mm. For the record, Applicants note that the Examiner is apparently referring to JP'540, paragraph [0007].

Moreover, Applicants note that JP'540 does not disclose a gas-gas heater re-heater, wherein the fin pitch of the transfer tubes is being set at 6.35 to 8.47 mm.

Applicants submit that the disclosure in JP'540 would not have motivated someone skilled in the art to modify the fin pitch of the gas-gas heater heat recovery device and the fin pitch of the gas-gas heater re-heater to the sizes as claimed in present claim 1. For example, Applicants note that JP'540 also does not teach or recognize that "at a gas flow of 10 to 11 m/s or more, the amount of abrasion rapidly increases, regardless of the level of dust concentration in the exhaust gas" (see present specification, paragraph [0032] of the published application). Absent of such knowledge, which is a surprising discovery of the present invention, someone of ordinary skill in the art would not be motivated to modify the fin pitch as claimed in the present invention.

Accordingly, JP'540 fails to teach the deficiencies of JP'647, wherefore withdrawal of the obviousness rejection of claim 3 is respectfully requested.

**CONCLUSION**

In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw the rejections of record, and allow each of the pending claims. Applicants therefore respectfully requests that an early indication of allowance of the application be indicated by the mailing of the Notices of Allowance and Allowability.

Should the Examiner have any questions regarding this application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully Submitted,  
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